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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,063

10/23/2003

David F. Davenport

03880-P0002B

7269

24126

7590

03/20/2007

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EXAMINER

ARNOLD, ERNST V

ART UNIT

PAPER NUMBER

1616

MAIL DATE

DELIVERY MODE

03/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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101692.063

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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20070315

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached

## DETAILED ACTION

### *37 CFR 1.105*

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: Applicant has supplied to the Examiner information that the liquid meal, liquid vitamin, GI support, suspendable feed, complete formula liquid etc... were on sale to the public on 8/23/2001. The accompanying descriptive material describes the liquid meal as requiring an incubation period and being whey based and made up of glucose and galactose. Lactose is enzymatically degraded by lactase into glucose and galactose. Since the degradation products of lactose are present and an incubation period appears to indicate a period of enzymatic action, the Examiner requires information as to whether lactase is present and in what amount in any of the disclosed formulations. The Examiner notes that in the disclosed paper "Equine Therapeutic Nutrition II: Customizing an Enteral Nutrition Program for the Critical Care Patient", it states: **Whey:** The authors have found whey (not whey protein concentrate) to be an extremely useful ingredient in the enteral feeding programs of several species. Whey ranges from 60-70% lactose and 7-11% protein. **Lactase should be added to the whey to produce equal amounts of glucose and galactose from the lactose.**

In conclusion, Applicants are requested to disclose the contents of the liquid meal part 1 and to specifically indicated whether or not lactase is present in the said contents.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

This Office action has an attached requirement for information under 37 CFR 1.105. A complete reply to this Office action must include a complete reply to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action. Requirements for information under 37 CFR 1.105 made without an action on the merits should set a shortened statutory period of two months for reply. Applicant may extend the time period for reply up to six months in accordance with 37 CFR 1.136(a).

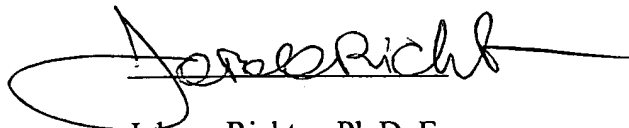
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernst V. Arnold whose telephone number is 571-272-8509. The examiner can normally be reached on M-F (6:15 am-3:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ernst Arnold  
Patent Examiner  
Technology Center 1600  
Art Unit 1616

A handwritten signature in black ink, appearing to read 'Johann Richter', with a large, stylized loop at the beginning and a horizontal line extending to the right.

Johann Richter, Ph.D. Esq.  
Supervisory Patent Examiner  
Technology Center 1600